STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

OMPT Specialists Inc
Petitioner **File No. 21-1643**

v

Auto Club Group Insurance Company
Respondent

Issued and entered
this 19th day of January 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On October 20, 2021, OMPT Specialists Inc. (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Auto Club Group Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner a bill denial on September 29, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on November 30, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on November 30, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 14, 2021.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on December 27, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments rendered on February 24, 2021, and March 3 and 8, 2021. The Current Procedural Terminology (CPT) codes at issue include 97110, 97014, 97112, and 97140, which are described as therapeutic exercise, electrical stimulation, neuromuscular reeducation, and manual therapy techniques. In its *Explanation of Benefits* letter, the Respondent referenced American College of Occupational and Environmental Medicine (ACOEM) guidelines regarding physical therapy for cervicothoracic and lumbar spine conditions and noted that the injured person received more than 49 sessions of physical therapy prior to February 24, 2021. The Respondent referenced ongoing complaints of low back soreness documented in the records and further stated that the records lacked "objected findings that the [injured person] had a long-term positive response and functional improvement with the completed therapy sessions."

With its appeal request, the Petitioner submitted progress notes which identified the injured person's diagnosis as intervertebral disc degeneration in the lumbar region and injury in a motor vehicle accident (MVA) in September of 1996. The Petitioner's request for an appeal stated:

> [The Respondent] paid on other dates of services for the [injured person.] [The Respondent] denied these dates of services stating that the patient exceeds the period of care for either utilization or relatedness. When we verified the [injured person's] benefits on 5-19-21 we were told by the adjuster…that the claim was open and billable and not in litigation…The services were medically necessary, and we are asking for a good faith payment.

In its reply, the Respondent reaffirmed its position and referenced American College of Occupational and Environmental Medicine (ACOEM) guidelines for the low back and chronic pain and stated that the treatment exceeded the guideline recommendations. The Respondent stated that, per the injured person's history, "it appears therapy has been ongoing since 6/15/2020 with little to no interruption, well over 6 visits, with ample opportunity to have established and reinforce a home [exercise program]."

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of

service at issue and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a medical doctor who is board-certified in physical medicine and rehabilitation with additional fellowship in neuromuscular medicine. In its report, the IRO reviewer referenced R 500.61(i), which defines "medically accepted standards" as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on Official Disability Guidelines (ODG) by MCG for physical therapy regarding back strain, American Academy of Physical Medicine and Rehabilitation (AAPMR) guidelines, and medical literature concerning the management of low back disorders for its recommendation.

The IRO reviewer explained that a AAPMR guideline review from June 2020 of the North American Spine Society states that "aerobic exercise is recommended to improve pain, disability and mental health in patients with nonspecific low back pain at short-term follow-up." The IRO reviewer further stated that these guidelines recommend cognitive behavioral therapy in combination with physical therapy to improve pain in individuals with low back pain longer than 12 months. The IRO reviewer noted that ODG guidelines recommend a duration of physical therapy treatment of 10 visits over a range of 8 weeks.

The IRO reviewer stated that the injured person had received "continued therapies" since June of 2020. The IRO reviewer opined that "the [physical therapy] sessions have exceeded the recommendations" from the ODG guidelines. In addition, the IRO reviewer stated that there was no meaningful change in the injured person's level of functioning, based on the submitted documentation, and noted that the Petitioner could have implemented a home exercise plan of care with the injured person before February 24, 2021.

The IRO reviewer recommended that the Director uphold the Respondent's determination that the physical therapy treatments provided to the injured person on February 24, 2021, and March 3 and 8, 2021 were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent's determination dated September 29, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X Sarah Wohlford

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford